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SUBJECT: U.S.-EU TROIKA CONSULTATIONS ON DISARMAMENT AND
NONPROLIFERATION (CODUN/CONOP), NOVEMBER 6, 2008

Classified By: USEU POL M-C CHRIS DAVIS FOR REASONS 1.4 A. AND D.

Summary

¶1. (C) Acting Assistant Secretary Patricia McNerney of the Bureau of International Security and Nonproliferation (ISN) led the U.S. delegation to the semi-annual U.S.-EU Troika consultations on disarmament and nonproliferation (CODUN/CONOP). The discussions covered a wide range of subjects in those areas, both on the conventional and WMD sides, and the two sides exhibited a large measure of convergence on such key issues as Iran, the DPRK, missiles, outer space, and chemical and biological weapons. The EU side expected to be able to announce soon a contribution to the NTI fuel bank initiative before the end of the French Presidency. On conventional weapons issues, i.e., an Arms Trade Treaty and cluster munitions, the U.S. side expressed concerns that the Europeans were moving ahead without full appreciation of security needs.
End Summary

Iran

¶2. (SBU) Jean-Hugues Simon-Michel, Deputy Director of Strategic Affairs, Security, and Disarmament at the French MFA, led off the discussion for the EU by commenting that UNSC Res 1835 had had some positive political impacts in Iran, even though it contained no new sanctions, because the Iranians had not expected the resolution. In discussing EU sanctions, he noted that the EU has gone beyond UN requirements by, e.g., freezing the assets of the Melli Bank and freezing export credit, and is now considering possible new actions vis--vis adding new entities to the EU sanctions list.

¶3. (SBU) AA/S McNerney commented that the U.S. was looking at several fronts, including the IAEA, which was to make a report before the Board of Governors meeting later in November. It was important, she said, to maintain pressure in the IAEA and also in the P-5 context. She noted that the U.S. was adopting measures in response to the Financial Affairs Task Force (FATF) guidance that states take preventive measures and urged other states to take similar actions to demonstrate to Iran that they were serious about adopting sanctions if Iran fails to change its behavior. These actions were having an impact on Iran in areas such as finance, shipping, and export controls, and demonstrating to Iran that its current path only leads to isolation.

¶4. (C) Speaking in his national capacity, Simon Michel expressed France's concern that a recent European Court of Justice ruling casting doubt on the validity of counter-terrorism sanctions could "contaminate" nonproliferation sanctions. In the counter-terrorism case, the Court ruled that justification for imposition of the sanctions on an individual or entity had to be made public; this was not possible in nonproliferation cases. Simon

Michel noted that Paris was just starting to consider how to head off this danger, and McNerney commented that undermining sanctions would defeat the effort to find a middle way between broad sanctions on an entire country and force. Annalisa Giannella of the EU Council Secretariat pointed out that her long experience taught her that the European Court was very independent. In this light, she urged making sure UNSC decisions were firmly based.

North Korea

15. (C) McNerney, briefing the Europeans on the status of U.S. and Six-Party actions, said that the file was somewhat back on track. The details of a verification protocol still had to be set down in writing, and the U.S. and DPRK were trying to schedule a Heads of Delegation meeting at which this could be done. She noted that the lifting of the state sponsor of terrorism designation from the DPRK was largely symbolic, since the DPRK remained under heavy U.S. sanctions.

16. (C) The next stage, she noted, was for the DPRK to give up its nuclear weapons. She did not think the North Koreans had decided on whether to take this step, although they seemed comfortable with current activities. She also said that the U.S. was pushing for a role for the IAEA, but found the North Koreans very antagonistic towards the Agency. She was heading to Vienna the following week to discuss these issues with the IAEA.

17. (SBU) Simon-Michel said that the EU welcomed the recent agreement and noted that progress with the DPRK could have an impact on Iran. In response to a question from him about

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China's role, McNerney said that by promoting the Chinese as chairs of the Six-Party process, we tried to keep them feeling they had a stake in the successful outcome of the process.

Syria

18. (C) According to Simon-Michel, the EU was taking the issue of Syria's nuclear activity seriously and feared it might be a new proliferation crisis. It supported an IAEA report and discussion of the issue at the next IAEA BOG. Pavel Klucky, Head of the Non-proliferation and Disarmament Unit in the Czech MFA, said that even robust IAEA activity might not turn up any evidence, noting that the Agency's principal Syrian interlocutor had been murdered.

19. (SBU) McNerney said the U.S. was working to ensure that the next BOG, which will have technical cooperation on its agenda, makes sure that such cooperation does not provide Syria with capabilities we do not want it to have. The U.S. was also urging the IAEA Secretariat to produce its report on Syria (the Agency had, she noted, some interesting things to report) and would press the BOG to pass a resolution to give the Secretariat a direction for its investigations.

U.S.-India Civil Nuclear Cooperation Initiative

110. (SBU) McNerney expressed her appreciation to France and others in the Nuclear Suppliers Group (NSG) for working to secure a successful result in the NSG. She noted that a lot of work remained to be accomplished - for example, negotiation of an Additional Protocol (AP) between India and the IAEA. We want to ensure, she said, that all states dealing with India maintain nonproliferation standards and urged them to encourage work on the AP, application of safeguards, and adoption of the Convention on Supplementary Compensation for Nuclear Damage.

111. (SBU) Simon-Michel replied that he was satisfied that the EU could reach a common position on the initiative in the NSG and that no EU member objected to it. He commented that ensuring the implementation of nonproliferation requirements

will be a long-term challenge.

The Transfer of Enrichment and Reprocessing Technology

¶12. (SBU) In response to a question from Klucky on the status of NSG discussions on the transfer of enrichment and reprocessing (ENR) technology and equipment, McNerney said that the U.S. was pushing to have a strong criteria-based approach adopted by the NSG Consultative Group later in November. She noted three problems: 1) Canada was not willing to accept the black box approach to the transfer of enrichment technology; 2) Brazil objected to a requirement that a state agree to the Additional Protocol as a condition for ENR transfer (Senior U.S. Department of Energy personnel were trying to convince Brazil and Argentina that this requirement would not have a negative impact on their indigenous programs); and 3) the Republic of Korea objected to a criterion that would take into account whether a country is already party to an agreement relating to renunciation of domestic ENR. McNerney thought that an agreement at the NSG would send a good signal following adoption of the Indian exception and urged the EU to work for approval.

NPT Review Conference

¶13. (U) Turning to the NPT review process, McNerney said that the new administration would review it, but she did not expect much difference on the core issues. The U.S. hoped the 2009 PrepCom would agree on an agenda for the RevCon and on substance the U.S. was likely to keep the focus on ensuring compliance and on support for civil nuclear energy in a manner that maintained strong nonproliferation, safety, and security standards.

¶14. (SBU) The EU intervention on this issue was made by Klucky, who noted that progress on U.S.-Russian bilateral arms control agreements would help the NPT atmosphere and asked where things stood now. He agreed that the agenda was a key issue and suggested that the U.S. and EU might provide the 2009 PrepCom chair with a draft. Klucky also noted that the EU had presented working papers to the 2008 PrepCom and would like support from others by the next meeting. He reported that Russia said it could support the EU paper on withdrawal from the NPT and noted that the EU also had papers on peaceful uses and export controls for which it hoped to secure additional co-sponsors. Finally, Klucky had a request

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for the U.S.: he urged that the Czech Republic, which is in the Eastern Group at NPT review meetings for organizational purposes, be allowed to participate in PrepCom WEOG meetings as EU presidency country.

¶15. (SBU) In response McNerney said that the U.S. had passed the text of a post-START agreement to Russia. The new Administration would certainly review this issue. She agreed that it would be good idea to provide the PrepCom chair with a draft agenda. Turning to substantive issues, she noted that we wanted to discourage withdrawal from the Treaty and make sure there were consequences to violations committed before withdrawals, while preserving the right of sovereign states to withdraw from treaties. McNerney promised to look into the question of the Czech Republic participating in WEOG meetings, which seemed on its face to make sense.

Nuclear Fuel Supply Assurances

¶16. (SBU) Rosine Couchoud, Assistant to the Deputy Director for Nuclear Disarmament and Nonproliferation, French MFA, said the EU was giving serious consideration to making a financial contribution to the proposal of the Nuclear Threat Initiative (NTI) to establish a fuel bank. She hoped that the EU would confirm its decision to support this idea by the end of the year, while at the same time taking part in defining the fuel bank. She also said that it was important

to expand the dialogue on this subject in general. McNerney replied that this was "terrific news" and noted that the UAE had pledged USD 10 million, leaving USD 35 million still to be raised.

¶17. (C) After describing steps the U.S. was taking to provide a source of nuclear fuel, McNerney noted that because of non-aligned suspicions of various offers, IAEA Director General ElBaradei was also less enthusiastic recently, even though he had been a strong proponent. It was necessary, she thought, to involve the operators, who saw the practical advantages of fuel supplies, rather than just diplomats or politicians, who were more concerned with "rights," which they were not exercising anyway. Couchoud said this was the EU view as well.

Conference on Disarmament (CD)/Fissile Material Cutoff Treaty (FMCT)

¶18. (C) McNerney reported on the current stalemate at the CD in Geneva, noting that Pakistan - the most significant obstacle to progress on an FMCT - seemed comfortable with its position as spoiler. She was skeptical that changing the U.S. position on the inclusion of verification measures in an FMCT would help break the logjam, but in any case, that issue was one for the new Administration to consider. As far as outer space was concerned, the U.S. preferred the approach it had been working on with the EU - voluntary transparency and confidence building measures - rather than a legally binding treaty such as the one proposed by the Russians and Chinese.

¶19. (SBU) Simon-Michel said the EU was very committed to going beyond the stalemate and supported CD/1840, the work program proposed by the six CD presidents for 2008 (including the U.S.). Some elements in it had been difficult for France, which could not make further concessions. Finally he raised the question of membership in the CD as some EU members (including the Czech Republic, as Klucky pointed out) are not members of the CD. The U.S. side noted that its long-standing position was to oppose further expansion of the CD as long as it was not engaged in substantive work, but McNerney promised to take the issue back to Washington and look at it again.

Comprehensive Nuclear Test Ban Treaty (CTBT)

¶20. (SBU) According to Simon-Michel, the EU considered the CTBT an important part of the nuclear nonproliferation and disarmament regime. The EU thought that the new U.S. Administration and the 2010 NPT RevCon provided a window of opportunity to bring the Treaty into force, and French President Sarkozy had appealed to the U.S. and China to ratify the CTBT. He also described an EU initiative to make high-level demarches calling for universalization and entry into force and an EU Joint Action, which would provide several million Euros in support of the Treaty's verification mechanisms, including on-site inspections.

¶21. (SBU) McNerney made clear that the policy of the current Administration had not changed. She was also not sure that the Senate would approve ratification, even if the new Administration favored the Treaty.

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Hague Code of Conduct against Ballistic Missile Proliferation (HCOC)

¶22. (SBU) The EU, stressed Simon-Michel, attached great importance to HCOC and feared that the Russian moratorium on pre-launch notifications (PLNs) and the U.S. failure to implement them put the Code at risk. To strengthen HCOC the EU had sponsored a resolution supporting the Code at the UNGA First Committee and was implementing a Joint Action. The latter included three programs: 1) the promotion of universalization through regional seminars; 2) the financing

of a secure communications system for HCOC; and 3) the financing of a study by the EU's security institute in Paris to see whether the Code and its implementation could be improved.

¶23. (C) McNerney thought the First Committee resolution had been helpful. She also reiterated the reason for the lack of U.S. PLNs, namely that the U.S. had decided to use the notifications made for the U.S.-Russian Joint Data Exchange Center (JDEC), but the JDEC agreement had still not been implemented because of Russian stalling. She hoped the U.S. could soon finalize the agreement with Russia, but stressed that an alternative system did not make sense, given the amount of money invested in the JDEC and the fear that an alternative could undermine its completion. The two sides agreed in their opposition to Russian attempts to water down the JDEC to attract new participants.

Missile Technology Control Regime (MTCR)

¶24. (SBU) In the brief discussion of the MTCR, Simon-Michel said some EU states were not MTCR members. The EU would like all to participate, including the Commission, which has competence in some areas.

Proliferation Security Initiative (PSI)

¶25. (C) After reporting on the September PSI Operational Experts Group meeting organized by France, Simon-Michel raised the perennial EU request that the EU institutions be permitted to participate in their own right and not just as part of member-state delegations. He argued that the EU role in customs, in nuclear regulation through EURATOM, and in controlling maritime borders made a case for EU participation. McNerney said the U.S. had looked at the issue, but the prevailing view in Washington was the PSI should focus on rapid operations, which were national actions.

UN Security Council Resolution 1540

¶26. (U) EU Council Secretariat staff member Fabio Della Piazza said the EU was pleased with its collaboration with the U.S. in this area. He also described the EU's Joint Action in support of the Resolution, adopted in May 2008.

¶27. (SBU) McNerney detailed how states were meeting their obligations under 1540 and noted that they now seemed comfortable with its requirements. She said that Malaysia was a key country of focus; we need to keep the pressure on it to enact and enforce export control legislation. McNerney also noted that the cooperation between the U.S. and the EU in this area was useful. Both sides agreed that the recent meeting on export controls in Croatia was valuable.

Outer Space

¶28. (C) EU representatives (Simon-Michel and Couchoud) expressed their appreciation for U.S. support and comments on the draft EU "Code of Conduct for Space Activities." On the other hand, both China and Russia had insisted that the Code make a connection to their draft treaty on the Prevention of the Placement of Weapons in Outer Space or at least to the general question of the prevention of an arms race in outer space (PAROS). According to Couchoud, the EU approach was much more along U.S. lines, but the EU was looking for some language that might accommodate the Russians and Chinese without going too far.

¶29. (C) McNerney said the U.S. appreciated the EU's work and would be happy to look at such language, but it did not support a treaty on arms control in outer space. She also reiterated that the U.S. would prefer to call the proposal "confidence building measures" rather than a "code of conduct" to avoid the impression that it could be binding.

Chemical Weapons Convention

¶30. (SBU) McNerney noted that while CW destruction was taking longer than expected, both the U.S. and Russia were committed to it. But in any event, as disarmament actions were winding up, it was important to transition from disarmament to concerns over CW terrorism, and even some of the non-aligned were aware of the problem. McNerney noted that despite Iranian attempts to politicize the April 2008 Review Conference, we were generally pleased with its outcome, including the decision to conduct more inspections.

¶31. (U) Simon-Michel said the EU shared the positive assessment of the RevCon, including the attention paid to verification, nonproliferation, and terrorism. He also called attention to an EU Joint Action on CW, noting that the EU would hold an event on December 1, promoting its implementation with emphasis on UNSCR 1540.

¶32. (C) In response to a question from Klucky, McNerney said the U.S. position on Russian membership in the Australia Group was unchanged. We had continuing concerns about Russian readiness to take on the commitments of the CWC.

Biological Weapons

¶33. (SBU) Andreas Strub, Coordinator, Office of the Personal Representative on Non-proliferation in the Council Secretariat, began by describing other EU Joint Actions -- one to promote universalization of the Biological Weapons Convention (BWC) and another with the WHO. McNerney said efforts were on target for the meeting of BWC state parties in early December. She stressed that efforts under way to enhance bio-security, especially in South and South East Asia, also had the effect of developing contacts with scientists, which in turn helped promote cooperation in countering terrorist threats.

¶34. (SBU) Strub replied that the EU found cooperation easier if bio-security was wrapped in health programs. He also noted that the EU's Action Plan on nonproliferation would have a strong bio component.

Arms Trade Treaty (ATT)

¶35. (SBU) Simon-Michel said that all EU members supported a legally binding ATT, which would secure respect for basic rules on the trade in armaments. EU peacekeepers in Africa had witnessed the destabilizing effect of arms trafficking and consider this a very important issue. The purpose of the treaty would be to establish the highest common standards on the import and export of conventional weapons. The EU welcomed the report of the UN Group of Governmental Experts (GGE) and the UNGA First Committee resolution supporting an ATT and was disappointed that the U.S. had voted no on the latter.

¶36. (U) After emphasizing that any agreement touching on internal controls on arms was sensitive, McNerney made clear that the U.S. shared the goals of many supporters of an ATT and had high standards of its own. However, it had problems with the UN resolution, which went beyond the consensus conclusions of the GGE.

¶37. (SBU) Following some further discussion on the UN resolution, Strub said that one key reason for an ATT was to show countries in the Third World that the developed world took their interests seriously. If not, we had a difficult time getting their support on WMD issues.

¶38. (C) In the most active discussion of the consultations, McNerney pressed the EU side to enunciate what problem the ATT was intended to fix. It was difficult to imagine, for example, that an ATT could stop countries like China from selling arms to Sudan. The EU side replied that the purpose was to establish basic rules on a multilateral basis, which

you could refer to in calling countries to account, not to establish precise criteria stating which countries could be the recipients of armaments.

Cluster Munitions

¶39. (C) Jiri Svoboda from the Czech MFA led off by praising the Convention on Certain Conventional Weapons (CCW) forum as an important one in which military and humanitarian concerns were both considered. Turning to the Dublin meeting on cluster munitions, he noted that all EU members had attended either as participants or observers, and he made clear that the EU sees the CCW and Oslo/Dublin processes as mutually reinforcing. Thus, any CCW protocol on cluster munitions had

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to be in accord with the convention agreed in Dublin. In response, the U.S. side pointed out that the Oslo convention preserved those cluster munitions its parties needed through use of definitions, which complicated efforts to make the two instruments compatible. Simon-Michel made clear that France, for one, was committed under the Oslo convention to destroy 95 per cent of its stockpile. McNerney stressed the U.S.'s commitment to the success of the CCW negotiations.

Any Other Business: Zangger Committee, Libya, and the Global Initiative to Combat Nuclear Terrorism

¶40. (SBU) Klucky, who is Chairman of the Zangger Committee, raised the issue of the participation of Kazakhstan and Belarus in the Committee. The Russians had told him they would raise the issue and also said they would agree to membership of all applicants in all regimes. Klucky wondered if the U.S. position had changed and asked that the U.S. take another look at the issue. McNerney told him not to expect any shift on Belarus in any case.

¶41. (SBU) Klucky then turned to Libya, which had said it would comply with MTCR, Australia Group, and Zangger Committee controls. He wondered if it could serve as an example to the Arabs in the NPT process. What would the U.S. think about asking Libya to co-sponsor the EU paper on export controls? McNerney said U.S.-Libyan cooperation in that field had been slow, but she promised that the U.S. would review the question of co-sponsorship and get back to the Czechs.

¶42. (SBU) McNerney then raised the Global Initiative, noting that Spain had done a great job hosting the political-level meeting last Spring. She called attention to the exercise planning meeting to be held on November 13-14 and noted that the GI-sponsored exercises were an important element in capacity building. She encouraged all EU states to participate. She also noted that the EU could help in encouraging participation beyond the West - perhaps in Asia. While Simon-Michel said France participated actively, Klucky pointed out that a shortage of personnel made it difficult for the Czech Republic to participate as actively as they would like.

Next Meeting

¶43. (U) Klucky proposed March 24, 2009 for the next round of consultations to focus in particular on the 2009 NPT PrepCom.

McNerney said we could agree in principle, but with the understanding that personnel from the new Administration would have the final word.

¶44. (U) This cable has been cleared by Acting A/S McNerney.

SILVERBERG